



# Journal of the House

State of Indiana

122nd General Assembly

First Regular Session

Twenty-Eighth Day

Monday Afternoon

March 22, 2021

The invocation was offered by Chaplain Matt Barnes of the Public Servant's Prayer.

The House convened at 1:30 p.m. with Speaker Todd M. Huston in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Torr.

The Speaker ordered the roll of the House to be called:

Abbott	Karickhoff
Andrade	King
Austin	Klinker
Aylesworth	Lauer
Baird <input type="checkbox"/>	Ledbetter
Barrett	Lehe
Bartels	Lehman
Bartlett	Leonard
Bauer	Lindauer
Behning	Lucas <input type="checkbox"/>
Borders	Lyness
Boy	Manning
Brown, T.	May
Campbell	Mayfield
Carbaugh	McNamara
Cherry	Miller
Clere	Moed
Cook	Morris
Davis	Morrison
Davisson <input type="checkbox"/>	Moseley
DeVon	Negele
DeLaney	Nisly
Dvorak	Olthoff
Eberhart	Pack
Ellington	Payne
Engleman	Pfaff
Errington	Pierce
Fleming <input type="checkbox"/>	Porter
Frye	Prescott
GiaQuinta	Pressel
Goodrich	Pryor
Gore	Rowray
Gutwein	Saunders
Hamilton	Schaibley
Harris	Shackleford
Hatcher	Slager
Hatfield	Smaltz
Heaton	Smith, V.
Heine	Snow
Hostettler	Soliday
Jackson	Speedy <input type="checkbox"/>
Jacob	Steuerwald
Jeter	
Johnson	Summers
Jordan	Teshka
Judy	Thompson

Torr  
VanNatter  
Vermilion ☐  
Wesco

J. Young  
Zent  
Ziemke  
Mr. Speaker

Roll Call 276: 93 present; 6 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, March 23, 2021, at 1:30 p.m.

LEHMAN

The motion was adopted by a constitutional majority.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 345, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, after line 17, begin a new line double block indented and insert:

"(B) townships;"

Page 2, line 1, delete "(B)" and insert "(C)".

Page 2, line 2, delete "(C)" and insert "(D)".

Page 2, line 3, delete "(D)" and insert "(E)".

Page 2, between lines 28 and 29, begin a new line double block indented and insert:

"(B) townships;"

Page 2, line 29, delete "(B)" and insert "(C)".

Page 2, line 30, delete "(C)" and insert "(D)".

Page 2, line 31, delete "(D)" and insert "(E)".

(Reference is to SB 345 as printed January 29, 2021.) and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 1.

BROWN T, Chair

Report adopted.

## ENGROSSED SENATE BILLS ON SECOND READING

Pursuant to House Rule 143.1, the following bills which had no amendments filed, were read a second time by title and ordered engrossed: Engrossed Senate Bills 8, 20, 28, 35, 79, 82, 93, 152, 196, 201, 214, 218, 329 and 384.

Representative Schaibley, who had been present, is now excused.

### Engrossed Senate Bill 260

Representative Wesco called down Engrossed Senate Bill 260 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 260-2)

Mr. Speaker: I move that Engrossed Bill 260 be amended to read as follows:

Page 7, delete lines 29 through 42, begin a new paragraph and insert:

"SECTION 9. IC 3-11.5-4-6, AS AMENDED BY P.L.278-2019, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) Each circuit court clerk shall keep all accepted ballot envelopes securely sealed in the clerk's office until the ballot envelopes are opened by absentee ballot counters in accordance with this chapter.

(b) Except as provided in sections 6.5 and 11.5 of this chapter, a county election board may not scan a voted absentee ballot card using an optical scan ballot scanner before election day.

SECTION 10. IC 3-11.5-4-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6.5. (a) This section does not apply to a county that adopts a resolution under section 11.5 of this chapter.

(b) As used in this section, "unique identification number" refers to a set of letters and numbers assigned to an absentee ballot that is scanned before election day as provided in this section. A unique identification number may include any of the following but only in a random order:

- (1) The name of the voter.
- (2) The date of birth of the voter.
- (3) The voter's Social Security number or the last four digits of the voter's Social Security number.
- (4) The residence and mailing address of the voter.
- (5) The telephone number or electronic mail address of the voter.
- (6) The date of registration of the voter.
- (7) The driver's license number of the voter.
- (8) The voter identification number assigned to the voter under IC 3-7-13-13.
- (9) Any other unique identification assigned to the voter by the computerized list established under IC 3-7-26.3.

(c) The county election board may adopt an order by unanimous vote of the entire membership of the county election board to scan an absentee ballot before election day in accordance with this section.

(d) A voting system used under this section must do the following:

- (1) Scan a voted absentee ballot card before election day.
- (2) Assign a unique identification number to each absentee ballot that is scanned under this section. The unique identification number must be:
  - (A) unique to the voter who voted the absentee ballot;
  - (B) recorded or printed on the absentee ballot before the voter completes the ballot;
  - (C) recorded on a list including the name and residence address of the voter so that the ballot can be matched to the voter;
  - (D) securely stored and accessible only to the county election board or its designee; and
  - (E) generated randomly and specifically for the election the absentee ballot was issued for.
- (3) Have the capability of electronically retracting a previously scanned absentee ballot card of a voter who is later found disqualified or whose ballot may not be counted for any other reason under this title by locating the ballot using the unique identification number assign to it under this section.
- (4) Comply with the requirements of IC 3-11-15-13.3 and is certified for use in Indiana by the commission.
- (5) Have retraction features that have been:
  - (A) tested under the authority of; and

(B) found to be in compliance with the Voluntary Voting System Guidelines described in IC 3-11-15-13.3(a)(3), by;

the United States Election Assistance Commission.

(e) A county that adopts a resolution under subsection (c) may:

- (1) scan a voted absentee ballot card using an optical scan ballot scanner not earlier than seven (7) days before election day; and
- (2) electronically retract a ballot described in subsection (d)(3) if the county otherwise complies with this title.

An absentee ballot voted by an absent uniformed services voter, overseas voter, or voter with print disabilities that is returned by fax or email may not be scanned under this section.

(f) A county that adopts a resolution under subsection (c) shall do the following:

(1) Ensure that all signature and absentee ballot reviews, sorting, and storage procedures required by this chapter and IC 3-11.5-6 are met.

(2) When an absentee ballot is returned to the county election board, an absentee voter board shall:

- (A) review the signature on the absentee ballot envelope as provided in section 5 of this chapter;
- (B) if the signature is found to be genuine, determine if the ballot envelope has been opened or has been opened and resealed;
- (C) if the ballot envelope has not been opened or has been opened and resealed, open the envelope and remove the ballot;
- (D) determine if the ballot has been endorsed with the initials of:

- (i) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
- (ii) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
- (iii) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19; and

(E) if the ballot has been properly endorsed, scan the absentee ballot.

Each day after absentee ballots are scanned, the absentee voter board shall secure the ballot in the same location where all other returned absentee ballot are kept as provided in IC 3-11.5-6-21 in an envelope or bag that is plainly marked on the outside of the envelope or bag, in ink, with the name of the precinct for which the absentee ballot was cast and that the absentee ballot was scanned as provided in this section.

(3) The county election board shall store the absentee ballot application and absentee ballot envelope for each absentee ballot after the ballot is removed from the envelope and scanned. A team of absentee ballot counters appointed under section 23 of this chapter shall review the signature on the absentee ballot envelope and determine if the absentee ballot can be counted under section 11 and 12 of this chapter.

(g) If an absentee voter board determines under subsection (f)(2) that an absentee ballot has not been:

- (1) properly endorsed;
- (2) that the ballot envelope has been opened; or
- (3) that the ballot envelope has been opened and resealed;

then the absentee ballot may not be scanned under this section.

(h) An absentee ballot that cannot be scanned or is otherwise rejected by the optical scan ballot scanner shall be remade either:

- (1) before election day by the appointed members of

the county election board; or  
(2) on election day by a remake team;  
in accordance with IC 3-12-3-5.

(i) The unique identification number assigned under subsection (d)(2) may not be listed on any record of the voter other than the list in subsection (d)(2)(B) and (d)(2)(C).

(j) The unique identification number may be entered into the computerized list established under IC 3-7-26.3.

(k) The unique identification number is confidential.

(l) An absentee ballot may not be retracted by manually removing the vote made for a candidate or public question on the ballot in the election management component of the voting system or the system used to tabulate, canvass, or otherwise determine the total votes a candidate or public question received in the county or precinct."

Renumber all SECTIONS consecutively.

(Reference is to ESB 260 as printed March 18, 2021.)

PRYOR

Upon request of Representatives GiaQuinta and Pierce, the Speaker ordered the roll of the House to be called. Roll Call 277: yeas 27, nays 63. Motion failed.

#### HOUSE MOTION (Amendment 260-3)

Mr. Speaker: I move that Engrossed Senate Bill 260 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-6-6-13, AS AMENDED BY P.L.194-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, twenty-one (21) days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by majority vote of the board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

(c) If a vacancy is filled by the county election board under subsection (b), the board may, by unanimous vote of the entire membership of the board, fill the office by appointing a student:

(1) enrolled at a postsecondary educational institution (including a community college); and

(2) who is a registered voter of the county;  
to serve as a nonpartisan precinct election officer.

(d) If a vacancy is filled by the county election board under subsection (b) (other than inspector), the board may, by unanimous vote of the entire membership of the board, fill the office by appointing a person eligible to serve as a precinct election officer (other than inspector) under section 39 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to ESB 260 as printed March 18, 2021.)

PRYOR

Upon request of Representatives Porter and GiaQuinta, the Speaker ordered the roll of the House to be called. Roll Call 278: yeas 87, nays 3. Motion prevailed.

Representative Olthoff, who had been present, is now excused.

#### HOUSE MOTION (Amendment 260-1)

Mr. Speaker: I move that Engrossed Senate Bill 260 be amended to read as follows:

Page 9, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 11. IC 3-11.5-4-13, AS AMENDED BY P.L.157-2019, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct. **An absentee ballot may not be rejected under this subdivision if the voter who cast the ballot was a qualified voter of the precinct when the voter marked and forwarded the voter's absentee ballot. To reject a ballot under this subdivision, there must be clear and convincing evidence that the voter who cast the absentee ballot was not a qualified voter in the precinct when the voter marked and forwarded the absentee ballot.**

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and there is no absentee ballot application from the voter to support the absentee ballot.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot:

(1) has been rejected under this section; or

(2) has not been received by the county by noon on election day and will not be counted under section 10 of this chapter; if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 12. IC 3-11.5-4-17 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 17: (a) If proof is given to the absentee ballot counters that an absentee voter marked and forwarded an absentee ballot but died before election day, the ballot of the deceased voter shall be rejected under section 13 of this chapter and retained with the other rejected ballots under section 14 of this chapter.~~

~~(b) The casting of an absentee ballot by a deceased voter does not invalidate an election."~~

Renumber all SECTIONS consecutively.

(Reference is to ESB 260 as printed March 18, 2021.)

PIERCE

Upon request of Representatives Pierce and Porter, the Speaker ordered the roll of the House to be called. Roll Call 279: yeas 36, nays 52. Motion failed. The bill was ordered engrossed.

### Engrossed Senate Bill 303

Representative McNamara called down Engrossed Senate Bill 303 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 303-4)

Mr. Speaker: I move that Engrossed Senate Bill 303 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-241.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 241.5. "Underground storage tank system" (or "UST system"), for purposes of IC 13-23, means any of the following:**

- (1) **An underground storage tank.**
- (2) **Connected underground piping.**
- (3) **Underground ancillary equipment used to distribute, meter, or control the flow of regulated substances to and from an underground storage tank, including piping, fittings, flanges, valves, and pumps.**

SECTION 2. IC 13-23-5-1, AS AMENDED BY P.L.96-2016, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) Subject to section 2 of this chapter, and except as provided in subsection (b), an underground storage tank, whether of single or double wall construction, may not be installed before the effective date of the rules adopted under IC 13-23-1-2 for the purpose of storing regulated substances unless:

- (1) the tank will prevent releases due to corrosion or structural failure for the operational life of the tank;
- (2) the tank is:
  - (A) cathodically protected against corrosion;
  - (B) constructed of noncorrosive material;
  - (C) steel clad with a noncorrosive material; or
  - (D) designed to prevent the release or threatened release of any stored substance;
- (3) the material used in the construction or lining of the tank is compatible with the substance to be stored; ~~and~~
- (4) the underground storage tank system meets the requirements of 40 CFR 280.32; and**
- ~~(4) (5) after July 1, 2007, all newly installed or replaced piping connected to the tank meets components of the underground storage tank system meet the secondary~~

containment requirements adopted by the board.

(b) An underground storage tank system that contains alcohol blended fuels composed of greater than fifteen percent (15%) alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect January 1, 2007) and may be installed during the period referred to in subsection (a) if the system is otherwise in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks and ancillary equipment, including dispensing equipment, used in the storing or dispensing of alcohol blended fuels for purposes of all other provisions of this article.

(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of greater than fifteen percent (15%) alcohol that comply with subsection (b) are considered to meet the standards of:

- (1) compatibility under subsection (a)(3); and
- (2) compliance for purposes of all other provisions of this article."

Page 2, line 18, reset in roman "November,".

Page 2, line 20, after "April," reset in roman "and".

Page 2, line 20, delete "October, and November;" and insert "October;".

Page 2, line 40, delete "30;" and insert "30."

Page 2, delete lines 41 through 42.

Page 4, line 9, delete "Subject to subsection (c), there" and insert "There".

Page 4, delete lines 18 through 29.

4, line 30, delete "(d)" and insert "(c)".

Renumber all SECTIONS consecutively.

(Reference is to ESB 303 as printed March 16, 2021.)

MCNAMARA

Motion prevailed. The bill was ordered engrossed.

### Engrossed Senate Bill 382

Representative Negele called down Engrossed Senate Bill 382 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 382-1)

Mr. Speaker: I move that Engrossed Senate Bill 382 be amended to read as follows:

Page 2, line 24, delete "new hire".

Page 2, line 26, delete "startup" and insert "district".

Renumber all SECTIONS consecutively.

(Reference is to ESB 382 as printed March 11, 2021.)

GIAQUINTA

Motion prevailed. The bill was ordered engrossed.

## ENGROSSED SENATE BILLS ON THIRD READING

### Engrossed Senate Bill 91

Representative Frye called down Engrossed Senate Bill 91 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 280: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 164

Representative DeVon called down Engrossed Senate Bill 164 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 281: yeas 74, nays 16. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 276**

Representative Young called down Engrossed Senate Bill 276 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 282: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **OTHER BUSINESS ON THE SPEAKER'S TABLE**

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Carbaugh be added as cosponsor of Engrossed Senate Bill 20.

MORRISON

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Jackson be added as cosponsor of Engrossed Senate Bill 91.

FRYE

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Vermilion and Snow be added as cosponsors of Engrossed Senate Bill 97.

LEHE

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative McNamara be removed as 1<sup>ST</sup> Sponsor of Engrossed Senate Bill 152 and Representative Prescott be substituted therefor, Representatives Prescott and Young be removed as cosponsors and Representative McNamara be added as cosponsor.

MCNAMARA

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Young be added as cosponsor of Engrossed Senate Bill 152.

PRESCOTT

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Lauer be added as cosponsor of Engrossed Senate Bill 232.

JUDY

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Manning and Hamilton be added as cosponsors of Engrossed Senate Bill 348.

SOLIDAY

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Barrett be added as cosponsor of Engrossed Senate Bill 365.

SCHAIBLEY

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Klinker be added as cosponsor of Engrossed Senate Bill 382.

NEGELE

Motion prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that House Rule 105.1 be suspended for the purpose of adding more than three cosponsors and that Representatives Morris and Harris be added as cosponsors of Engrossed Senate Bill 384.

HEINE

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

##### **HOUSE MOTION**

Mr. Speaker: I move that Representative Miller be added as cosponsor of Engrossed Senate Bill 392.

BEHNING

Motion prevailed.

##### **MESSAGE FROM THE SENATE**

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 26 and 27 and the same are herewith returned to the House.

JENNIFER L. MERTZ  
Principal Secretary of the Senate

On the motion of Representative Klinker, the House adjourned at 2:52 p.m., this twenty-second day of March, 2021, until Tuesday, March 23, 2021, at 1:30 p.m.

TODD M. HUSTON  
Speaker of the House of Representatives

M. CAROLINE SPOTTS  
Principal Clerk of the House of Representatives